IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 584 OF 2006

SHRI. DATTARAM RAMCHANDRA MARATHE ....Petitioner

Versus

SHRI. MADHAV B. KELKAR & 2 ORS. ....Respondents

Mr. N. De Costa Frias, Advocate for the petitioner.

Ms. Winnie Coutinho, GA for State.

Coram:- J. N. PATEL, J.

Date:- 6th December, 2006

P.C.

Heard.

2. The petitioner challenges the order dated 9.11.2005 and 6.10.2006 passed by the authorities rejecting his application for setting aside the exparte order.

3. The subject matter relates to unauthorised construction being carried out by the petitioner who is a tenant of the premises. The two authorities have taken into consideration the reasons put forth by the petitioner for not prosecuting the case.

4. It is not in dispute that the petitioner was duly served and was given sufficient opportunity to contest the matter and his Advocate also sought discharge in the matter as the petitioner was not responding and failed to prosecute the same.

5. The reasons put forth by the petitioner are that he was not keeping

well and therefore could not prosecute the case and respond to his Advocate, and that he is a Senior Citizen.

6. The learned Counsel for the petitioner submits that the authorities have rejected the application on the ground that it is not vested with such inherent powers to review the Court Order of proceeding exparte and in support of his contention, he has placed reliance in the decision of the Supreme Court in Grindlays Bank Ltd., v. The Central Government Industrial Tribunal and others, AIR 1981 SC 606.

7. In so far as the jurisdiction of the Court is concerned, to set aside ex-parte award is not in dispute. In the present factual matrix, what is evident is the petitioner has not been able to justify setting aside of the e-xparte order inspite of being given more than sufficient opportunity in the matter. Therefore in exercise of jurisdiction vested in this Court, under Article 227 of Constitution of India, this Court is not inclined to entertain the petition as it does not find that the two authorities have committed any error or illegality.

8. The petition is dismissed.

J. N. PATEL, J.

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